

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Wai-Kuen Lui and William Wai-Shing Lui
U.S. Serial No. : 10/593,701
Confirmation No. : 3093
Filed : September 19, 2006
Examiner : Hao D. Mai
Art Unit : 3732
For : FLEXIBLE DENTAL FLOSS APPLICATOR AND INTERDENTAL GUM STIMULATOR

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW AND
PETITION FOR EXTENSION OF TIME**

Applicants request review of the Final Office Action mailed April 7, 2009 in connection with the above-identified application. This Request is being filed with a Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences (Exhibit A, 1 page)

Applicants hereby petition for a one (1) month extension of time, and authorize the Commissioner to charge the one-month extension fee of SIXTY FIVE DOLLORS (\$65.00) for a small entity, and the Notice of Appeal fee of TWO HUNDRED SEVENTY DOLLORS (\$270.00) for a small entity to Deposit Account No. 50-1891. Authorization is hereby given to charge any additional fee, or credit any overpayment, to Deposit Account No. 50-1891. Accordingly, a response is now due on August 7, 2009, and this Request is being timely filed.

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REMARKS

I. Pending Claims

Claims 22 and 24-41 are pending in this application. A copy of the pending claims can be found in the amendment filed January 29, 2009.

II. Rejection of Claims 22, 24-27 and 31-38

Claims 22, 24-27 and 31-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney (U.S. Pat. No. 3,533,420) in view of Chodorow et al. (U.S. Pub. No. 2005/0217692).

In the Advisory Action mailed June 4, 2009, the Examiner maintains that Maloney discloses the flexible means substantially as claimed except for the flexible means being of one construction (i.e. monolithically integral) with the teeth cleaning means and the handling means; nevertheless, it would have been obvious to substitute the flexible means of Maloney with a well known monolithically integral living hinge such as that (22) shown by Chodowrow in Figure 2. Applicants respectfully traverse.

Independent claim 22 recites an apparatus comprising:

a flexible means ... wherein ... the flexible means, the teeth-cleaning means and the handling means are of one construction, and the flexible means is pliable so that the interdental material can be brought laterally to either side of the longitudinal axis of the handling means to have an about 90 degrees angle between the interdental material and the longitudinal axis of the handling means.

Independent claim 31 essentially recites the same flexible means. In contrast, Maloney does not teach or suggest a flexible means as claimed herein. As acknowledged by the Examiner, Maloney does not teach or suggest a flexible means being of one construction with the teeth cleaning means and the handling means. Moreover, Maloney does not teach or suggest a pliable flexible means that can be brought to about 90 degrees laterally to either side of the longitudinal axis of the handling means as claimed herein. Maloney only teaches:

an adjustable connection is formed between head 60 and handle 62 enabling them to be adjusted into various preselected angles ... this adjustable connection includes a small hinge 64 connected between head 60 and handle 62 to enable them to be moved about the hinge pin 66 into a desired angular relationship. Hinge pin 66 is a head screw

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whose threads are engaged in corresponding threads in the eyes of the hinge so that upon advancement of the hinge pin, the hinge may be secured against movement with the head and handle in the desired relative positions. (see column 2, lines 62-75)

Maloney does not provide any teaching on the range of movement allowed by such head screw 66 functioning as a hinge pin. More specifically, Maloney does not teach or suggest such hinge pin would allow a 90-degree lateral movement to either side of the handling means as claimed herein.

Neither do Chodorow et al. teach or suggest a flexible means that would allow 90-degree lateral movement to either side of the handling means as claimed herein. As shown in Figures 5-7, Chodorow teaches a hinge that would only allow at the most 45-degree movement. Furthermore, the hinge of Chodorow et al. would not allow movement to either side of the handling means as claimed herein due to the construction and operation of the hinge. Chodorow's invention requires a projection from the handle that acts as a latch to lock the flosser head in a bent orientation (see paragraphs [0010], [0011], [0014]-[0018], and [0059]). As a result, the hinge of Chodorow's device would only permit movement to one, not both, side of the handling means. In other words, the flexible means of the present invention is different and distinct from the hinge of Chodorow et al. in that the flexible means of the present invention has a greater degree of movement and does not require a latch as a locking device.

In conclusion, Maloney and Chodorow together do not render the present invention obvious because the combination of the cited references does not teach or suggest each and every limitation recited in independent claims 22 and 31. More specifically, the combination of Maloney and Chodorow does not teach or suggest a flexible means that is integral to the rest of the device, wherein the flexible means is pliable so that the interdental material can be brought laterally to either side of the longitudinal axis of the handling means to have an about 90 degrees angle between the interdental material and the longitudinal axis of the handling means.

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III. Rejection of Claims 28-30 and 39-41

Claims 28-30 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney (U.S. Pat. No. 3,533,420) in view of Chodorow et al. (U.S. Pub. No. 2005/0217692), and further in view of Gordon (U.S. Pat. No. 5,184,719). The rejection is respectfully traversed.

Claims 28-30 and 39-41 are dependent on claims 22 and 31. Maloney and Chodorow have been discussed above. The Examiner cites Gordon for teaching of guarding means.

As discussed above, the combination of Maloney and Chodorow does not teach or suggest each and every aspect of the flexible means as claimed herein. Consequently, neither does the combination of Maloney, Chodorow and Gordon teach or suggest each and every aspect of the present invention, and claims 28-30 and 39-41 are not obvious in view of the cited references.

IV. Conclusions

In view of the foregoing remarks, it is respectfully requested that the finality of the Final Office Action dated April 7, 2009 be withdrawn and prosecution be reopened.

Respectfully submitted,

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